

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
PUBLIC NOTICE OF FINAL NPDES GENERAL PERMIT
FOR PESTICIDE APPLICATIONS
PUBLIC NOTICE NO: 2011 – 10K- F
DATE OF NOTICE: OCTOBER 31, 2011

The Office of Water Quality (OWQ) is issuing a new NPDES Pesticide General Permit in response to the 6th Circuit Court of Appeals decision in National Cotton Council of America et al. v. U.S. Environmental Protection Agency (553 F.3d 927) that must be in place by October 31, 2011. The purpose of this NPDES general permit is to establish additional requirements for point source discharges from the application of pesticides to waters of the state. These requirements are consistent with the U.S. Environmental Protection Agency (EPA) pesticide general permit requirements published under 40 CFR 122. The NPDES general permit pertains to pesticide applications on waters of the state of Indiana and land areas adjacent to waters of the state.

This NPDES general permit is applicable to all persons who discharge pesticides to waters of the state from the application of biological pesticides or chemical pesticides which leave a residue of the pesticide or its degradates. The following categories of pesticide discharges are covered under this general permit:

- (1) Mosquitoes and Other Flying Insect Pest Management;
- (2) Aquatic Weed and Algae Control;
- (3) Aquatic Nuisance Animal Control;
- (4) Forest Canopy Pest Control;
- (5) Ditch Bank or Conveyance Weed Control;
- (6) Control of Aquatic Vegetation under a DNR Permit; and
- (7) Aquatic Weed and Algae Control in Private Ponds.

The submission of a notice of intent and development of a Pesticide Discharge Management Plan under this general permit will only be required for certain persons who have pesticide applications that would exceed a threshold listed in the general permit.

All comments which were received during the official public notice comment period are listed in the Indiana PGP Responses to Comments Document along with OWQ's responses to those comments. Please refer to the Post Public Notice Addendum on pages 9 thru 11 of the permit fact sheet for a summary of all of the changes which were made to the Pesticide General Permit since the close of the public notice comment period.

IDEM Contact Person: Mrs. Catherine Hess, Office of Water Quality /NPDES Permits Branch, IGCN Room 1255, MC 65-42, 100 North Senate Avenue, Indianapolis, Indiana 46204-2251, at 317/232-8704 or chess@idem.IN.gov.

APPEAL PROCEDURES FOR FINAL PERMITS

The final NPDES general permit is posted on IDEM's web site at <http://www.in.gov/idem/5338.htm>. The Final Permit is also available for review & copies at IDEM, Indiana Government Center, North Bldg, 100 N Senate Ave, Indianapolis, IN, Room 1203, Office of Water Quality/NPDES Permit Section, from 9 – 4, M - F (copies 10¢ per page). Copies of the final permit documents are also available at the local health departments and at IDEM's Regional Offices. The document is also available via email request. Please tell others you think would be interested in this matter. Regarding your rights and responsibilities pertaining to the Public Notice process and timeframes, please refer to IDEM websites: <http://www.IN.gov/idem/5474.htm> and the IDEM Guide for Citizen Participation: <http://www.IN.gov/idem/5803.htm>.

Appeal Procedure: Any person affected by the issuance of the Final Permit may appeal by filing a Petition for Administrative Review with the Office of Environmental Adjudication **within** eighteen (18) days of the date of this Public Notice. Any appeal request must be filed in accordance with IC 4-21.5-3-7 and must include facts demonstrating that the party requesting appeal is the applicant; a person aggrieved or adversely affected or is otherwise entitled to review by law.

Timely filing: The Petition for Administrative Review must be received by the Office of Environmental Adjudication (OEA) **within** 18 days of the date of this Public Notice; either by U.S. Mail postmark or by private carrier with dated receipt. This Petition for Administrative Review represents a request for an Adjudicatory Hearing, therefore must:

- state the name and address of the person making the request;
- identify the interest of the person making the request;
- identify any persons represented by the person making the request;
- state specifically the reasons for the request;
- state specifically the issues proposed for consideration at the hearing;
- identify the Final Permit terms and conditions which, in the judgment of the person making the request, would be appropriate to satisfy the requirements of the law governing the NPDES Permit.

If the person filing the Petition for Administrative Review desires any part of the NPDES Final Permit to be stayed pending the outcome of the appeal, a Petition for Stay must be included in the appeal request, identifying those parts to be stayed. Both Petitions shall be mailed or delivered to the address here:

Environmental Law Judge
Office of Environmental Adjudication
IGC – North Building- Room 501
100 N. Senate Avenue
Indianapolis, IN 46204
Phone: 317/232-8591.

Stay Time frame: If the Petition(s) is filed within eighteen (18) days of the mailing of this Public Notice, the effective date of any part of the permit, within the scope of the Petition for Stay is suspended for fifteen (15) days. The Permit will become effective again upon expiration of the fifteen (15) days, unless or until an Environmental Law Judge stays the permit action in whole or in part.

Hearing Notification: Pursuant to Indiana Code, when a written request is submitted, the OEA will provide the petitioner or any person wanting notification, with the Notice of pre-hearing conferences, preliminary hearings, hearing stays or orders disposing of the Petition for Administrative Review. Petition for Administrative Review must be filed in compliance with the procedures and time frames outlined above. Procedural or scheduling questions should be directed to the OEA at the phone listed above.